

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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OLGA DE LA CRUZ-SEGURA

Civil Docket No.: TBD

Plaintiff,

-against-

**NOTICE OF REMOVAL**

AA TRUCKING CORPORATION, CEVA FREIGHT,  
LLC, CEVA LOGISTICS U.S. INC., CEVA  
LOGISTICS U.S. HOLDINGS, INC. and PITERSON  
MASSENAT DESIR,

Defendants.

-----X

**TO: CLERK OF THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW  
YORK**

**PLEASE TAKE NOTICE** that Defendants, **AA TRUCKING CORPORATION, CEVA  
FREIGHT, LLC, i/s/h/a CEVA FREIGHT, LLC, CEVA LOGISTICS U.S. INC., CEVA LOGISTICS  
U.S. HOLDINGS, INC. and PITERSON MASSENAT DESIR**, by their attorneys, **MARSHALL  
DENNEHEY WARNER COLEMAN & GOGGIN**, remove this case from the Supreme Court of the  
State of New York, County of New York to United States District Court, Southern District of New York,  
and in support of said removal state, under penalty of perjury:

1. A civil action brought in a state court of which the District Courts of the United States have  
original jurisdiction may be removed by the defendants to the District Court of the United States for the  
district and division embracing the place where such action is pending. 28 U.S.C. §1441(a).

2. 28 U.S.C. §1446 requires that a defendant who wants to remove a civil action to file a notice of  
removal together with copies of all process, pleadings, and orders served upon it.

**RELEVANT PROCEDURAL HISTORY**

3. A civil action was commenced by the plaintiff, OLGA DE LA CRUZ-SEGURA., against **AA TRUCKING CORPORATION, CEVA FREIGHT, LLC, i/s/h/a CEVA FREIGHT, LLC, CEVA LOGISTICS U.S. INC., CEVA LOGISTICS U.S. HOLDINGS, INC. and PITERSON MASSENAT DESIR.**, in the Supreme Court of the State of New York, County of New York, Index No.: 152102/2022.

4. The Complaint was filed with the Supreme Court of the State of New York, County of New York, on March 10, 2022. (See Summons and Complaint annexed hereto as **Exhibit “A”**).

5. Defendants **AA TRUCKING CORPORATION, CEVA FREIGHT, LLC, i/s/h/a CEVA FREIGHT, LLC, CEVA LOGISTICS U.S. INC., CEVA LOGISTICS U.S. HOLDINGS, INC. and PITERSON MASSENAT DESIR.**, were purportedly served with the Summons and Complaint on March 21, 2022. (See Affidavits of Service annexed hereto as **Exhibit “B”**). Defendants e-filed/served an Answer on April 20, 2022 (See Answer annexed hereto as **Exhibit “C”**).

6. Importantly, plaintiff’s counsel advised, for the first time, on April 20, 2022 via telephone and we confirmed via an “other paper pre-removal correspondence e-mail” the next day on April 21, 2022, that the amount in controversy will certainly satisfy and exceed the jurisdictional threshold of \$75,000. See *Rositani v Cochran*, 20-CV-8273, 2020 WL 7384531, at \*2 [SDNY Dec. 16, 2020] and *Moltner v Starbucks Coffee Co.*, 624 F3d 34, 37-38, 2010 WL 4291299 [2d Cir 2010]. (See E-mail from Defendant’s Counsel Ephraim Fink of Marshall Dennehey on April 21, 2021 at 12:30 p.m., annexed hereto as **Exhibit “D”**).

7. Accordingly, this original Notice of Removal is made timely pursuant to statute and interpreting case law. See *Rositani v Cochran*, 20-CV-8273, 2020 WL 7384531, at \*2 [SDNY Dec. 16, 2020](holding that informal pre-removal e-mail correspondence between the parties satisfies the “other paper” requirement of 28 U.S.C. § 1446(b)(3) regarding scienter of jurisdictional amount in controversy).

**GROUND FOR REMOVAL**

8. The grounds for removal are based on the original jurisdiction of this Court under 28 U.S.C. §1332, which allows this Court to hear matters based on diversity of citizenship of the parties.

9. The named corporate defendant AA TRUCKING's state of domicile/incorporation, ***both at the time of the commencement of the action and the time of this removal***, was and is New Jersey, with a principal place of business of 807 Chancellor Street, Floor 2, Elizabeth, New Jersey 07202 (as Alberto Alencastro is the President of AA Trucking. (See State of New Jersey, Department of the Treasury, Division of Revenue and Enterprise Services Annual Report Certificate submitted on March 20, 2021 and 2020 1099-NEC issued by Ceva Freight, LLC to Alberto Alencastro and AA Trucking annexed hereto as **Exhibit "E"** as further proof thereof).

10. The named corporate defendant CEVA FREIGHT, LLC i/s/h/a CEVA LOGISTICS U.S., INC., and ., CEVA LOGISTICS U.S. HOLDINGS, INC. state of domicile/incorporation, ***both at the time of the commencement of the action and the time of this removal***, was and is Delaware and its principal place of business is 15350 Vickery Drive, Houston, Texas 77032. (See State of Delaware Secretary of State Division of Corporations Certificates of Amendment and Formation merging The Select Carrier Group, L.P., Ceva Groux US, L.P. and EGL Management, LLC into CEVA Freight, LLC from 1999 to 2019 annexed hereto as **Exhibit "F"** as further proof thereof).

11. Individual named Defendant Piterson Massenat Desir is a resident/domiciled in New Jersey, ***both at the time of the commencement of the action and the time of this removal***, by virtue of both his personal address, 355 Plainfield Avenue, Apt. 8B, Edison, New Jersey 08817 (further proof can be submitted via affidavit if the Court requires) and principal place of business of 807 Chancellor Street, Floor 2, Elizabeth, New Jersey 07202. See Exhibit **"A and E."**

14. As seen above, the plaintiff's Summons alleges that she is a resident of the County of New York, State of New York with an address of 611 Academy Street, #C5, New York, NY 10034 ***both at the time of the commencement of the action and the time of this removal.*** See Exhibit "A".

15. As indicated above, Defendants now believe in good-faith that the amount in controversy exceeds \$75,000.00 exclusive of interest and costs based on plaintiff's counsel's representation

### **CONCLUSION**

16. Removal of this action to the United States District Court is proper under 28 U.S.C. §1441(a) because, upon bona fide good faith information from plaintiff's counsel, the amount in controversy exceeds \$75,000, exclusive of interests and costs, and because there is complete diversity of citizenship between the plaintiff and defendants. The United States District Court would, therefore, have original jurisdiction over this matter under 28 U.S.C. §1332 had the action been brought in federal court originally.

17. Written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d), as evidenced in the annexed Certificate of Service.

18. Simultaneously while filing this Notice with the Court and the assignment of a civil docket number, a copy of this Notice will be filed with the Supreme Court of the State of New York, County of New York in accordance with 28 U.S.C. §1446(d) via New York State Courts Electronic Filing (NYSCEF).

19. By filing this Notice of Removal, defendants do not waive any defenses, including, without limitation, lack of personal jurisdiction, improper venue or forum, failure to establish damages, all defenses specified in Federal Rules of Civil Procedure 12, or any other defenses.

**WHEREFORE**, the Defendants give notice that the above-referenced action, pending against it in the Supreme Court of the State of New York, County of New York, has been removed to this Court.

Dated: Purchase, New York  
May 5, 2021

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**



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Ephraim J. Fink, Esq.

*Attorneys for Defendants*

**AA TRUCKING CORPORATION, CEVA FREIGHT,  
LLC, i/s/h/a CEVA FREIGHT, LLC, CEVA  
LOGISTICS U.S. INC., CEVA LOGISTICS U.S.  
HOLDINGS, INC., and**

**PITERSON MASSENAT DESIR**

287 Bowman Avenue, Suite 404

Purchase, New York 10577

Phone: (914) 977-7300

Direct Dial: (914) 977-7306

Fax: (914) 977-7301

Email: [EJFink@MDWCG.com](mailto:EJFink@MDWCG.com)

Our File No.: 41706.00109

**TO: MACALUSO & FAFINSKI, P.C.**

Joseph G Macaluso, Esq.

Donna A. Fafinski, Esq.

*Attorneys for Plaintiff*

One Fordham Plaza, Suite 1002

Bronx, New York 10458

(718) 364-4000